The Examiner argues that the inventions listed as Groups A-E do not relate to a single general inventive concept because they lack the same or corresponding special technical features. Applicants respectfully disagree and submit that the subject matter of Groups A through E are indeed linked under PCT Rule 13.1.

First, the Examiner asserts that there is no special technical feature unifying the Inventions of Groups A-E because "Shichijo et al. (1998) teach a gene encoding antigenic peptides recognized by histocompatibility leukocyte antigens (HLA)." Applicants respectfully disagree with the Examiner's assertions. Interestingly, however, the Examiner fails to provide Applicants with a copy of Shichijo, a reference or other identifying characteristics for Applicants to obtain a copy of Shichijo, or the filing date/publication date of Shichijo. As such, the Examiner leaves Applicants effectively no recourse for rebutting her assertions. For this reason alone, Applicants submit that the Examiner's Restriction Requirement is improper and must be withdrawn. In any event, Applicants reserve the right to rebut a rejection for lack of novelty once one is formally made on the record.

Second, the Examiner asserts that the Inventions listed as Groups A-E do not relate to a single general inventive concept because they are related as products and processes of use that,

under MPEP § 806.05(h), are distinct. Again, the Examiner makes an improper Restriction Requirement. The Examiner's attention is drawn to MPEP 1895.01 (D) Unity of Invention (page 1800-154), wherein it is stated, "Restriction practice under 35 U.S.C. § 121, as it applies to national applications submitted under 35 U.S.C. § 111(a), is **not** applicable to either international or national stage applications [filed under 35 U.S.C. § 371]." "U.S. national stage applications filed under 35 U.S.C. § 371 are subject to unity of invention practice in accordance with 37 C.F.R. §§ 1.475 and 1.499." (See MPEP 1896 "Unity of Invention," page 1800-158). Thus, the Examiner has used the wrong set of rules and the wrong set of criteria in issuing the Restriction Requirement. For this reason, the Restriction Requirement is improper and should be withdrawn.

Finally, in response to the Election of Species Requirement, Applicants elect SEQ ID NO:2 with strong traverse. The Examiner asserts that the species are patentably distinct based on structural and functional differences and mode of action. Again, the Examiner bases her assertions on the wrong criteria. The question is not whether the species are "patentably distinct" *pre se*, but whether there is unity of invention under PCT Rules 13.1 and 13.2. Applicants respectfully submit that SEQ ID NOs: 1-36 and 41-43 are indeed linked under PCT Rule 13.1, so as to form a single general inventive concept.

All of the peptide fragments represented by SEQ ID NOs:1-36 and 41-43 are derived from the same protein, a cyclophilin. In terms of function and mode of action, all of the peptide fragments presented by SEQ ID NOs:1-36 and 41-43 are tumor antigen peptides capable of binding to an HLA antigen or being recognized by cytotoxic T lymphocytes. Thus, the special technical feature linking the species is cyclophilin-derived peptides that are capable of binding to an HLA antigen or being recognized by cytotoxic T lymphocytes. Further, the Examiner's assertion that the species have different functions and modes of action is incorrect.

Conclusion

For all of the above reasons, Applicants respectfully request that the Restriction Requirement be withdrawn, and Groups A through E, and species SEQ ID NOs: 1-36 and 41-43, be recombined. An early and favorable action on the merits of the present application is earnestly solicited.

If the Examiner has any questions concerning this application, the Examiner is requested to contact the Kristi L. Rupert, Ph.D. (Reg. No. 45,702) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees

required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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